

### **REMARKS**

Claims 1-43 are pending in the current application. Claims 1, 12, 23, 34 and 39 are independent claims.

### **Allowable Subject Matter**

Initially, Applicant appreciates the Examiner's indication that claims 7, 9-11, 18, 20-22, 29 and 31-33 would be allowable if rewritten into independent form. In view of the remarks below, Applicant submits that each pending claim is allowable over the cited art.

### **35 U.S.C. §103(a) Lee in view of Okumura**

Claims 1-6, 12-17, 23-28 and 34-43 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee (2003/0050086) in view of Okumura (U.S. Patent No. 6108384). Applicant respectfully traverses this art grounds of rejection.

Lee is directed to a method of adjusting a signal power in a variable data rate mode in a mobile communication system. Applicant agrees with the Examiner in that "Lee does not explicitly disclose determining the presence of a packet on the rate indicator channel based on a likelihood generated by a maximum likelihood decoder that decodes the rate indicator channel" (See Page 3 of the 7/11/2008 Office Action). However, the Examiner alleges that Okumura discloses this particular deficiency of Lee.

Okumura is directed to a data transmission method, data transmitting system and transmitter and receiver. In particular, Okumura discloses how to determine which bit in a given data frame is a 'final bit' for the frame (e.g., see Okumura, Abstract). The final-bit determination process of Okumura is described generally with respect to Figure 6. In step S1 of Figure 6, a bit

position #L is assumed to be the final bit position of coded data in a given frame (e.g., Fig. 6 and Col. 11, lines 28-34 of Okumura). A likelihood that the bit position #L is the final bit in the data frame is calculated (S2, S3) and a differential between the calculated likelihood and a maximum likelihood (S4) is compared with a predetermined range (S5). If the comparison of S5 indicates that the differential is outside of the range, bit position #L is not the final bit; otherwise, additional error checking (S6, S7, S8) is performed to determine whether bit position #L is actually the final bit. If S5 or S8 determines the bit position #L is not the final bit, the process increments L (i.e., to L+1) and repeats under the assumption that the next bit is the final bit position, and so on, until the final bit is determined.

Accordingly, Okumura teaches using a differential between a likelihood value and a maximum likelihood to determine whether a current bit under evaluation is a final bit in a data frame. However, the presence of coded data, or a data packet, is assumed because the process of Figure 6 at S1 starts out with the assumption that a final bit in the data frame is being evaluated. For example, if bit position #L is the final bit, then a data packet or other coded data is necessarily present. If bit position #L is not a final bit, then the process of Figure 6 concludes that it has yet to reach the final bit (i.e., because L is incremented and the process repeats for L+1), such that the data packet or other coded data is still necessarily present, albeit with a final bit position that is not yet known. Because a packet is present irrespective of the decision blocks of S5 and S8 in Fig. 6 of Okumura, the process of Fig. 6 cannot be said to evaluate packet presence (i.e., again, this is actually an assumption made when bit position #L is selected for evaluation at S1).

Okumura does discuss the possibility of the absence of data, or 'blank' data, in a particular data frame (e.g., see Fig. 2B of Okumura, contrasted with Fig. 2A). However, the likelihood differential is not used to determine whether coded data or blank data is present, but

rather whether a particular bit among the coded data is a final bit. The process of Fig. 6 stops when the final bit is reached (e.g., see Fig. 6, if S8 indicates CRC equanimity, then the decoding of the frame terminates), such that the blank data would not be evaluated under the process of Fig. 6 in any case (also, even if blank data were evaluated by Fig. 6, all that can be decided is whether the blank data is a final bit, such that Fig. 6 would simply evaluate the blank section as non-final, and not 'no packet', and the iterative process of Fig. 6 would keep repeating). Thus, the likelihood differential In Okumura cannot be said to determine packet presence; rather, the likelihood differential determines whether a bit within a packet (which is already *assumed* to be present) is a final bit.

In view of the above remarks, Applicant respectfully submits that Lee in view of Okumura cannot disclose or suggest "determining the presence of a packet on the rate indicator channel based on a likelihood generated by a maximum likelihood decoder that decodes the rate indicator channel" as recited in independent claim 1 and similarly recited in independent claims 12, 23, 34 and 39 (Emphasis added).

As such, claims 2-6, 13-17, 24-28, 35-38 and 40-43, dependent upon independent claims 1, 12, 23, 34 and 39, respectively, are likewise allowable over Lee in view of Okumura at least for the reasons given above with respect to independent claims 1, 12, 23, 34 and 39, respectively.

Applicant respectfully requests that the Examiner withdraw this art grounds of rejection.

### **35 U.S.C. §103(a) Lee in view of Okumura and further in view of Jou**

Claims 8, 19 and 30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Lee (2003/0050086) in view of Okumura (U.S. Patent No. 6108384) and further in view of Jou (2001/0019541). Applicant respectfully traverses this art grounds of rejection.

Applicant agrees with the Examiner in that Lee and Okumura fail to disclose “that the sub-packet ID and payload size of the packet is compared to sub-packet IDs and payload sizes of previous packets” (See Page 4 of the 7/11/2008 Office Action). However, the Examiner alleges that Jou discloses these particular deficiencies of Lee and Okumura.

Jou is directed to an energy based communication rate detection system and method. A review of Jou indicates that Jou is insufficient to cure the suggestion and disclosure deficiencies of Lee and Okumura as discussed above with respect to independent claims 1, 12 and 23. As such, claims 8, 19 and 30, dependent upon independent claims 1, 12 and 23, respectively, are likewise allowable over Lee, Okumura and Jou at least for the reasons given above with respect to independent claims 1, 12 and 23, respectively.

Applicant respectfully requests that the Examiner withdraw this art grounds of rejection.

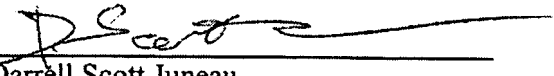
### CONCLUSION

In light of the remarks contained herein, Applicant submits that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

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